

Jeffrey A. Udell (JU0411)  
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(212) 451-2300  
*Attorneys for Plaintiff*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

P & E PROPERTIES, INC.,

Plaintiff, **ECF CASE**

-against-

UNITED NATURAL FOODS, INC. and  
MILLBROOK DISTRIBUTION SERVICES  
INC.,

Defendants.

No. 08 Civ. 00553 (MGC) (DCF)

**PLAINTIFF'S INITIAL DISCLOSURES PURSUANT TO FED. R. CIV. P. 26(a)(1)**

Plaintiff P & E Properties, Inc. ("P & E"), by its counsel, pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure, makes the following initial disclosures based on its current knowledge and information reasonably available to it at this time. P & E reserves the right to revise, supplement, or otherwise update these disclosures.

**Initial Disclosure (i):** *The name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.*

The following individuals are likely to have information concerning the allegations and claims set forth in plaintiff's complaint:

1. James A. Cohen. Mr. Cohen may be contacted through the undersigned counsel.
2. Ira Gomberg. Mr. Gomberg may be contacted through the undersigned counsel.
3. Reuven Har-Evan. Mr. Har-Evan may be contacted through the undersigned counsel.
4. Hal Weiss. Mr. Weiss may be contacted through the undersigned counsel.
5. Tracey Marrero. Ms. Marrero may be contacted through the undersigned counsel.
6. Ralph Ortiz. Mr. Ortiz may be contacted through the undersigned counsel.
7. Kristie Tilas. Ms. Tilas may be contacted through the undersigned counsel.
8. Carol Weidenthal. Ms. Weidenthal may be contacted through the undersigned counsel.
9. Elizabeth Ganss. Ms. Ganss may be contacted through the undersigned counsel.
10. Renato Tuazon. Mr. Tuazon may be contacted through the undersigned counsel.
11. Richard A. Bernstein. Mr. Bernstein may be contacted through the undersigned counsel.
12. Mark Shamber. Mr. Shamber may be contacted at 260 Lake Road  
Dayville, CT 06241.
13. Robert Siegel. Mr. Siegel's contact information is unknown at this time.

P & E reserves its right to supplement or amend this list of witnesses, to call at trial or for deposition any additional or different witnesses, including rebuttal and impeachment witnesses, and to present testimony from witnesses concerning other subject areas if the need for such

testimony arises. By identifying any potential witness, P & E does not adopt any testimony offered by such witness or concede its relevance.

**Initial Disclosure (ii):** *A copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.*

Documents and electronically-stored information relating to the claims asserted in the complaint, the general administrative services agreement (the “Agreement”) entered into between P & E and Millbrook, dated February 15, 2007, and the performance of the parties under that agreement.

These materials are available for inspection at the offices of Olshan Grundman Frome Rosenzweig & Wolosky LLP, Park Avenue Tower, 65 East 55<sup>th</sup> Street, New York, NY 10022. P & E reserves its right to modify or supplement this disclosure as necessary and appropriate to include additional documents relevant to support its claims. By identifying or producing any item responsive to this disclosure, P & E does not adopt any information contained therein or concede its relevance.

**Initial Disclosure (iii):** *A computation of each category of damages claimed by the disclosing party—who must also make available for inspection and copying as under Rule 34, the documents or other evidentiary material, unless privileged or protected from disclosures, on which each computation is based, including materials bearing on the nature and extent of injuries suffered.*

To date, P & E has sustained damages in excess of \$1 million, exclusive of interest and costs, and anticipates sustaining additional damages, as calculated herein:

P & E employee retention compensation	\$967,747
January 2008 to March 2008 installments of <u>annual management fees pursuant to the Agreement</u>	<u>75,000</u>
Total	\$1,042,747

In addition to the foregoing, P & E is entitled to punitive damages, the amount of which is not presently susceptible to calculation. Accordingly, P & E reserves its right to modify and supplement this disclosure as necessary and appropriate to include additional information relevant to support its claims.

**Initial Disclosure (iv):** *For inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.*

P & E is not aware of the existence of any insurance agreement between any parties to satisfy any judgment which may be entered in this action or to indemnify or reimburse any party for payments made to satisfy any such judgment.

Dated: New York, New York  
March 21, 2008

OLSHAN GRUNDMAN FROME  
ROSENZWEIG & WOLOSKY LLP

By: /s/ Jeffrey A. Udell  
Jeffrey A. Udell (JU0411)  
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CERTIFICATE OF SERVICE

I, JULIANNE M. FOLEY, am not a party to this action and am over the age of 18, and certify under penalty of perjury that on March 21, 2008, I served a true copy of the **Plaintiff's Initial Disclosures Pursuant to Fed. R. Civ. P. 26(a)(1)** upon

Mark P. Gimbel  
COVINGTON & BURLING LLP  
The New York Times Building  
620 Eighth Avenue  
New York, New York 10018

via the United States District Court for the Southern District of New York Electronic Case Filing System.

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JULIANNE M. FOLEY